

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.1175 of 2016

Union Of India, Through The General Manager, East Central Railway,
Hajipur

... .. Appellant/s

Versus

Smt. Priyanka Verma Wife of Late Mantu Kumar, Resident of Village-
Ruchunpura, P.S.- Ekangarsarai, District- Biharsharif @ Nalanda.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Amarendra Nath Verma, Sr. Panel Counsel Mr. Rakesh Kumar No. 1, Advocate
For the Respondent/s	:	Mr. Anant Kumar-1, Advocate

CORAM: HONOURABLE MR. JUSTICE SUNIL DUTTA MISHRA
ORAL JUDGMENT

Date : 20-08-2024

Heard learned counsel for the appellant as well as
learned counsel for the respondent.

2. The instant appeal has been filed under Section 23 of the Railway Claims Tribunal Act, 1987 on behalf of the appellant/ Union of India against the judgment/ order dated 14.03.2016 passed by the Railway Claims Tribunal, Patna in O.A. No. 00643 of 2014 by which the Original Application filed by the Applicant/ respondent has been allowed and the Railway was directed to pay Rs. 4 lakhs along with interest.

3. The facts, in brief, giving rise to this appeal are that Mantu Kumar (husband of the applicant) had come to Gaya Junction from Vishakhapatnam on 27.04.2014 and after purchasing a second class valid train ticket from Gaya



Junction on 27.04.2014 for going to Koderma, he had boarded the Train No. 13306 Down (Gaya-Dhanbad Intercity Express Train) at Gaya Junction. It is alleged that there was heavy rush in the general compartment of the train due to which the deceased was standing near the gate inside the Coach of the Train and due to heavy rush and intense jostling of passengers the deceased accidentally fallen down from the said running train about 1km East to Gaya Junction near Vairagi. It is stated that due to falling down from the running train, the deceased sustained serious injuries and he died on the spot. The appellant/ Union of India (Railways) contested the claim by filing written statement denying the case to be an untoward incident. It is contended that the deceased was not a *bonafide* passenger of the said train while going to Koderma, at the relevant time, as recovery of ticket was not mentioned in the inquest report. The learned Tribunal on appreciation of rival pleadings framed the following issues:-

- (i) Whether the deceased was a bonafide passenger?
- (ii) Whether the death of the deceased is covered under the alleged untoward incident, as defined under Section 123 (c)(2) of the Railways Act, 1989?
- (iii) Whether the applicant is dependent of the deceased
- (iv) Whether the applicant/ dependents are



entitled to get compensation, if yes, to what extent?

4. During enquiry, in order to establish the claim, the claimant being wife of the deceased filed her affidavit (Ext.- AW1/A) in support of her contentions made in her application. She was cross-examined on behalf of the appellant/Railway. In her cross-examination, she has stated that she was at her house at the time of said incident and she had got the information about the said incident from her family members. The applicant has also produced documentary evidence; Ext.-A1 is the Station Memo issued by the Station Manager, Gaya Junction, Ext.- A2 is the letter/ statement of Sri Suresh Prasad, Ext.- A3 is the inquest report, Ext.- A4 is post-mortem report, Ext.- A5 is dead body receipt, Ext.- A6 is final report, Ext.- A7 is death certificate of the deceased, Ext.- A8 is family membership certificate issued by the Circle Officer, Ekangarsarai, Nalanda and Ext.- A9 is copy of voter identity card of the applicant. On behalf of Railways, Ext.- R1, i.e. DRM report has been filed which shows that the deceased had died due to falling down from the train due to his own negligence. On the basis of the material on record and the evidences filed on behalf of parties and after hearing the parties, the learned Railway Claims Tribunal held that the deceased Mantu Kumar (husband of the



applicant) had met with an untoward incident due to falling down from the said train and he had succumbed to his injuries during his medical treatment and the application is liable to be partly allowed and accordingly, the Railway was directed to make payment of compensation of Rs. 4 lakhs along with simple interest @ 10% *per annum* from the date of registration of this application, i.e. 07.10.2014 within 60 days from the date of submission of the Bank Account details/ mandate by the applicant, otherwise the entire amount of the compensation will attract simple interest 2% *per annum* more from the date of registration of the application till its realization.

5. Learned counsel for the appellant submits that the deceased was not a *bonafide* passenger travelling with proper and valid ticket as no ticket was found from the deceased. He further submits that the father of the deceased had admitted in his *Fardbeyan* that the deceased had committed suicide as he was disappointed with his life. He further submits that seizure-list prepared along with inquest report mentioning seizure of suicide note of the deceased. He further submits that the learned Tribunal has awarded exorbitant rate of interest ignoring that the current nationalized banks are giving only 4% simple interest on saving Bank Account. He further submits that onus was on the



applicant to prove her claim and not on the Railways to prove that the deceased was a *bonafide* passenger.

6. On the other hand, learned counsel for the respondents submits that the claimant/applicant has proved her case by oral evidence as well as documentary evidence in her affidavit before the Tribunal in which she has stated that the valid ticket of her deceased husband was lost during the occurrence. During the cross-examination of the applicant (AW-1) any material fact could not be drawn from her, contrary to averments made in her Original Application. The applicant has proved that the deceased had died due to falling from train while travelling as a bonafide passenger. Learned counsel for respondents has placed reliance on the judgment of *Union of India Vs. Rina Devi* reported in *2019(3) SCC 572* and submits that the initial burden of the bonafide passenger has been discharged by the applicant and the onus has been shifted on the Railway Authorities which has not been discharged by them. Learned counsel further submits that there is no evidence that the deceased had boarded the train without taking valid ticket. There is presumption of the passenger travelling in train with *bonafide* ticket and the burden of proof lies on the Railway Administration.



7. Section 55 of the Railways Act provides Ticket/ proper pass/ permission mandatory while entering inside the Railway premises as well as to travel by train and is further punishable in terms of Section 137 of the Railway Act.

8. It is well settled that mere presence of dead body on the Railway premises will not be conclusive to hold that the injured or deceased was a bonafide passenger. However, mere absence of ticket with such injured or deceased will also not be a negative factor for rejection of the claim, but the initial burden is on the shoulder of the applicant which can be discharged by filing an affidavit of the relevant facts and the burden will then shift on the Railways.

9. The Hon'ble Supreme Court in ***Union of India Vs. Rina Devi*** reported in **2019(3) SCC 572** held that death or injury in the course of boarding or disembarking a train will be "an untoward incident" entitling a victim to compensation and will not fall under the proviso to Section 124(A) merely on the plea of negligence of the victim as a contributing factor.

10. The Hon'ble Supreme Court in the case of ***Rina Devi*** (supra) has held that mere presence of body in the Railway premises would not be conclusive to hold that injured or deceased was a *bonafide* passenger for which claim for



compensation could be maintained. However, mere absence of ticket for such injured or deceased would not negative the claim that he was a *bonafide* passenger. Initial burden would be on the applicant which can be discharged by filing an affidavit on the relevant facts and burden will then shift on Railways and the issue can be decided on the facts shown or the attending circumstances. This will have to be dealt with from case to case on the basis of facts found.

11. In the present case, inquest report, post-mortem report and final report of U.D. Case No. 31 of 2014 show that the deceased Mantu Kumar died due to fall from running Dhanbad-Gaya Intercity Express Train. The untoward incident cannot be doubted in absence of any other material. The claimant has filed her affidavit stating the relevant fact and discharged her initial burden but the Railway has not adduced any evidence in rebuttal or denial of the claim of the claimant.

12. Having heard the learned counsels for the parties and having gone through the records, it appears that the learned Railway Claim Tribunal has correctly considered the evidence and material available on record and applied the settled principle of law as discussed above. Accordingly, the compensation awarded vide the impugned judgment/ order is



not liable to be interfered with by this Court and accordingly the appeal has no merit which is dismissed to that extent. However, considering the facts and circumstances of the case, the rate of interest @ 6% *per annum* from the date of filing of the Original Application till its realization is appropriate. It is now well settled in the case of ***Union of India Vs. Rina Devi*** (supra) that interest can be awarded without any difference in the stages.

13. Accordingly, the compensation awarded vide the impugned judgment/ order dated 14.03.2016 passed in O.A. No. 00643 of 2014 is confirmed with modification in the said judgment/ award with respect to interest to the extent that the interest rate shall be 6% *per annum* from the date of filing of the claim application till its realization.

14. Accordingly, this Miscellaneous Appeal is disposed of with the aforesaid modification in the impugned judgment/ award.

15. There shall be no order as to costs.

16. Pending applications, if any, shall stand disposed of.

17. The appellant shall pay the compensation amount with interest, minus any amount if already deposited,



within a period of two months from today.

(Sunil Dutta Mishra, J)

rakhi/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	21.08.2024
Transmission Date	

